

APPEAL NO. 020278
FILED MARCH 19, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 8, 2002. The hearing officer determined that the appellant (claimant) had not sustained a compensable injury on _____, and therefore did not have disability.

The claimant appealed basically arguing that the hearing officer's decision is against the great weight and preponderance of the evidence. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. The claimant was employed by a temporary staffing agency and was sent to a client company. The claimant alleged a back injury while lifting on her second day on the job, she was subsequently laid off by the client company and then reported the complained-of injury the following day. The medical reports note an assessment of a lumbar strain.

We reject the claimant's assertion on appeal that "where an injury is clearly evident by medical evidence, the court decisions and Appeals Panel decisions give presumptive weight to the Claimant's description of how the injury occurred" and note that we have frequently held that a fact finder is not bound by the testimony (or evidence) of a medical witness where the credibility of that testimony (or evidence) is manifestly dependent upon the credibility of the information imparted to the medical witness by the claimant. Rowland v. Standard Fire Insurance Company, 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). The hearing officer, as the fact finder, may believe all, part, or none of the testimony of any witness and is not required to give presumptive weight to the claimant's testimony of how the injury occurred. We conclude that the hearing officer's determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TEXAS BUILDERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

MR. ROBERT SIDDON
TEXAS BUILDERS INSURANCE COMPANY
11612 RM2244, BUILDING 1
AUSTIN, TEXAS 78738.

Thomas A. Knapp
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Terri Kay Oliver
Appeals Judge